



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2014-0617; A-1-FRL-9950-03-Region 1]

Air Plan Approval; VT; Prevention of Significant Deterioration, Nonattainment and Minor New Source Review

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving three State Implementation Plan (SIP) revisions submitted by the State of Vermont. These revisions primarily amend several aspects of Vermont's new source review permitting regulations. The permitting revisions are part of Vermont's major and minor stationary source preconstruction permitting programs, and are intended to align Vermont's regulations with the federal new source review regulations. The revisions also contain amendments to other Clean Air Act (CAA) requirements, including updating the State's ambient air quality standards and certain emissions limits for sources of nitrogen oxides and sulfur dioxide. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective **[Insert date 60 days from date of publication in the Federal Register]**, unless EPA receives adverse comments by **[Insert date 30 days from date of publication in the Federal Register]**. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2014-0617 at <http://www.regulations.gov>, or via email to McDonnell.Ida@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Ida E. McDonnell, Manager, Air Permits, Toxics, and Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100, (OEP05-2), Boston, MA 02109-3912, phone number (617) 918-1653, fax number (617) 918-0653, e-mail McDonnell.Ida@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
 - A. Clean Air Act Permitting
 - B. State Ambient Air Quality Standards
- II. Summary of State Submittals
 - A. 1993 SIP Revision
 - B. 2011 SIP Revision
 - C. 2014 SIP Revision
- III. Final Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. Background and Purpose

A. Clean Air Act Permitting

In the Clean Air Act Amendments of 1990, nonattainment new source review (NNSR) requirements were expanded to include ozone attainment areas within the Ozone Transport Region (OTR). The federal regulations at 40 CFR 51.165 contain the minimum elements that a State's preconstruction permitting program for major stationary sources in nonattainment areas (and in the OTR) must contain in order for EPA to approve the State's program into the SIP.

On November 29, 2005 (70 FR 71612), EPA promulgated the "Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of

Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline’’ (Phase 2 Rule). Among other requirements, the Phase 2 Rule obligated states to revise their Prevention of Significant Deterioration (PSD) programs to explicitly identify nitrogen oxides (NO_x) as a precursor to ozone. This requirement was codified in 40 CFR 51.166, and requires that states submit SIP revisions incorporating the requirements of the rule, including specific provisions treating NO_x as a precursor to ozone, by June 15, 2007. *See* 70 FR 71612 at 71683, November 29, 2005.

On May 16, 2008 (73 FR 28321), EPA issued the Final Rule on the ‘‘Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM_{2.5})’’ (2008 NSR Rule). The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct PM_{2.5}, and other pollutants that contribute to secondary PM_{2.5} formation. One of these requirements is for NSR permits to address pollutants responsible for the secondary formation of PM_{2.5}, otherwise known as precursor pollutants. In the 2008 rule, EPA identified precursors to PM_{2.5} for the PSD program to be sulfur dioxide (SO₂) and NO_x (unless the state demonstrates to the Administrator’s satisfaction, or EPA demonstrates, that NO_x emissions in an area are not a significant contributor to that area’s ambient PM_{2.5} concentrations). The 2008 NSR Rule also specifies that volatile organic compounds (VOCs) are not considered to be precursors to PM_{2.5} in the PSD program, unless the state demonstrates to the Administrator’s satisfaction, or EPA demonstrates, that emissions of VOCs in an area are significant contributors to that area’s ambient PM_{2.5} concentrations. The explicit references to SO₂, NO_x and VOCs as they pertain to secondary PM_{2.5} formation are codified at 40 CFR 51.166(b)(49)(i)(b) and 52.21(b)(50)(i)(b). As part of identifying pollutants that are precursors to PM_{2.5}, the 2008 NSR Rule also required states to revise the definition of ‘‘significant’’ as it relates to a net emissions increase or the potential of

a source to emit pollutants. Specifically, 40 CFR 51.166(b)(23)(i) and 52.21(b)(23)(i) define “significant” for PM_{2.5} to mean the following emissions rates: 10 tons per year (tpy) of direct PM_{2.5}; 40 tpy of SO₂; and 40 tpy of NO_x (unless the state demonstrates to the Administrator’s satisfaction, or EPA demonstrates, that NO_x emissions in an area are not a significant contributor to that area’s ambient PM_{2.5} concentrations). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011. *See* 73 FR 28321 at 28341, May 16, 2008.

The 2008 NSR Rule did not require states to immediately account for gases that could condense to form particulate matter, known as condensables, in PM_{2.5} and PM₁₀ emission limits in NSR permits. Instead, EPA determined that states had to account for PM_{2.5} and PM₁₀ condensables for applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in PSD permits beginning on or after January 1, 2011. *See* 73 FR 28321 at 28334. This requirement is codified in 40 CFR 51.166(b)(49)(i)(a) and 52.21(b)(50)(i)(a). Revisions to states’ PSD programs incorporating the inclusion of condensables were required to be submitted to EPA by May 16, 2011. *See* 73 FR 28321 at 28341.

On October 20, 2010, EPA issued the final rule on the “Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5})—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)” (2010 PSD Rule). *See* 75 FR 64864. This rule established several components for making PSD permitting determinations for PM_{2.5}, including a system of “increments,” which is the mechanism used to estimate significant deterioration of ambient air quality for a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c). The 2010 PSD Rule also established a new “major source baseline date” for PM_{2.5} as October 20, 2010, and a new trigger date for PM_{2.5} as

October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(c) and (b)(14)(ii)(c), and 52.21(b)(14)(i)(c) and (b)(14)(ii)(c). Lastly, the 2010 PSD Rule revised the definition of “baseline area” to include a level of significance of 0.3 micrograms per cubic meter, annual average, for PM_{2.5}. This change is codified in 40 CFR 51.166(b)(15)(i) and 52.21(b)(15)(i).

B. State Ambient Air Quality Standards

Section 109 of the CAA directs EPA to establish NAAQS requisite to protect public health with an adequate margin of safety (primary standard) and for the protection of public welfare (secondary standard). Section 109(d)(1) of the CAA requires EPA to complete a thorough review of the NAAQS at 5-year intervals and promulgate new standards when appropriate. Additionally, Section 107 of the CAA requires the establishment of air quality control regions for the purpose of implementing the NAAQS.

On October 17, 2006 (71 FR 61144), EPA revised the primary and secondary 24-hour NAAQS for fine particulate matter (PM_{2.5}) to 35 micrograms per cubic meter and retained the primary and secondary 24-hour NAAQS for coarse particulate matter (PM₁₀) of 150 micrograms per cubic meter. EPA revoked the annual standard for PM₁₀. This final rule became effective on December 18, 2006.

On March 27, 2008 (73 FR 16436), EPA revised the NAAQS for ozone, setting the level of the primary and secondary 8-hour standard to 0.075 parts per million. This final ozone standard rule became effective on May 27, 2008. On October 26, 2015 (80 FR 65292), EPA revised the NAAQS for ozone, setting the level of the primary and secondary 8-hour standard to 0.070 parts per million. This final ozone standard rule became effective on December 28, 2015.

On November 12, 2008 (73 FR 66964), EPA revised the NAAQS for lead, setting the level of the primary and secondary standard to 0.15 micrograms per cubic meter and revised the averaging time to a rolling 3-month period with a maximum (not-to-be-exceeded) form, evaluated over a 3-year period. The final lead standard rule became effective on January 12, 2009.

On February 9, 2010 (75 FR 6474), EPA revised the NAAQS for oxides of nitrogen as measured by nitrogen dioxide (NO₂). EPA established a 1-hour primary standard for NO₂ at a level of 100 parts per billion, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, to supplement the existing primary and secondary annual standard of 53 parts per billion (*See* 61 FR 52852, October 8, 1996). The final NO₂ rule became effective on April 12, 2010.

On June 22, 2010 (75 FR 35520), EPA revised the NAAQS for oxides of sulfur as measured by sulfur dioxide (SO₂). EPA established a new 1-hour SO₂ primary standard at a level of 75 parts per billion, based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. EPA also revoked both the previous 24-hour and annual primary SO₂ standards. EPA did not revise the existing secondary standard of 0.5 part per million averaged over 3 hours and not to be exceeded more than once per year. This final rule became effective on August 23, 2010.

On January 15, 2013 (78 FR 3086), EPA revised the primary PM_{2.5} annual NAAQS, lowering the standard to 12.0 micrograms per cubic meter. The final rule became effective on March 18, 2013.

II. Summary of State Submittals

A. 1993 SIP Revision

On August 9, 1993, the Vermont Department of Environmental conservation (VT DEC) submitted a revision to its State Implementation Plan (SIP) addressing the nonattainment new source review (NNSR) and reasonable available control technology (RACT) requirements of the 1990 Clean Air Act Amendments (1993 SIP submittal). The submittal consisted of several changes to the State's regulations as well as a SIP narrative. In 1998, EPA approved the revisions dealing with the RACT requirements. *See* 63 FR 19825, April 22, 1998.

In a letter dated July 13, 2016, Vermont withdrew the SIP narrative and a number of definitions that were either already approved into the SIP or were determined not to be required to be in the SIP. The State also withdrew certain provisions of APCR, Subchapter V, Sections 5-502(3), (6), and (7) because revised versions of those provisions were resubmitted by the State on February 14, 2011. We are therefore not acting on those provisions withdrawn by the State from the 1993 SIP submittal.

EPA is approving the definition of "Federally Enforceable" in Section 5-101 from the 1993 SIP submittal.

B. 2011 SIP Revision

On February 14, 2011, the VT DEC submitted a revision to its SIP addressing EPA's Greenhouse Gas Tailoring Rule, certain other aspects of the State's preconstruction permitting requirements, and certain emissions limits for sources of nitrogen oxides and sulfur dioxide (2011 SIP submittal). In 2012, EPA approved the portions of the 2011 SIP submittal that related to EPA's Greenhouse Gas Tailoring Rule. *See* 77 FR 60907, October 5, 2012.

In a letter dated July 13, 2016, VT DEC withdrew some, but not all, of the revisions included in the 2011 SIP submittal. The State withdrew these provisions for various reasons; either because additional information needs to be submitted before EPA could approve certain provisions into the SIP, Vermont intends in the near future to revise certain provisions and resubmit them to EPA, certain provisions were already in the SIP, or certain provisions were determined not to be required to be in the SIP.

We are approving the following provisions contained in the 2011 SIP submittal¹:

- a. A clarification to the definition of the term “Federal Land Manager.”
- b. Provisions containing emissions limits for certain categories of sources that emit NO_x and SO₂. (In a letter dated July 13, 2016, Vermont submitted a technical demonstration consistent with section 110(l) of the Clean Air Act, showing that the changes to the applicability of these emissions limits will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. See EPA’s TSD for a more detailed analysis.)
- c. A provision clarifying what type of operations would be considered asphalt batch plants and would be required to obtain a minor new source review permit for any new or modified source.
- d. Provisions clarifying Vermont’s authority to request sources to submit written reports.
- e. Provisions (further revised in a 2014 SIP submission) providing the State with the authority to require air dispersion modeling on a case-by-case basis for minor sources, and containing the procedures a source must follow when providing an impact analysis on ambient air quality in order for the source to obtain a PSD permit.

¹ For a more detailed listing of these provisions and the specific language in question, please see EPA’s Technical Support Document (TSD) included in the administrative record and docket.

f. Provisions requiring sources to obtain a permit prior to construction, and providing the State with the authority to deny a permit for a project that would not be in compliance with the state permitting regulations. (We note that these provisions are codified in the State's submittal as APCR Section 5-501(4). However, the existing approved SIP already contains an APCR Section 5-501(4) that relates to a different topic. Thus, our approval of this new APCR Section 5-501(4) will appear in the SIP after existing Section APCR 5-501(4). This codification issue arose because the State has amended its regulations over time at the state level and did not submit the entire revised regulation to EPA for approval into the SIP. EPA believes that implementation of the State's permitting program and the enforceability of these provisions as part of that program will not be compromised because the provisions will have been approved by EPA on separate dates. Thus, in future legal proceedings, a complete and accurate citation to one of these two provisions should also include the date upon which EPA approved the provision in question into Vermont's SIP in order to distinguish clearly one from the other.)

g. Provisions (further revised in a 2014 SIP revision) specifying which entities, including affected states and federal land managers, are to receive notification when a source is subject to major new source review. (We note that one of these provisions is codified in the State's submittal as APCR Section 5-501(6). However, the existing approved SIP already contains an APCR Section 5-501(6) that relates to a different topic. Thus, our approval of this new APCR Section 5-501(6) will appear in the SIP after existing APCR Section 5-501(6). This codification issue arose because the State has amended its regulations over time at the state level and did not submit the entire revised regulation to EPA for approval into the SIP. EPA believes that implementation of the State's permitting program and the enforceability of these provisions as part of that program will not be compromised because the provisions will have been approved by

EPA on separate dates. Thus, in future legal proceedings, a complete and accurate citation to one of these two provisions should also include the date upon which EPA approved the provision in question into Vermont's SIP in order to distinguish clearly one from the other.)

h. A provision prohibiting a major new source or major modification from initiating construction prior to obtaining a construction permit.

i. Provisions (further revised in a 2014 SIP submittal) requiring new major sources and major modifications to conduct an air quality impact analysis.

j. Provisions containing requirements for major new sources and major modifications that are subject to nonattainment new source review under Part D of the CAA because Vermont is located within the ozone transport region.

EPA is approving the provisions identified above in subparagraphs a. through j. See EPA's TSD for more detailed information.

C. 2014 SIP Revision

On July 25, 2014, the VT DEC submitted a revision to its SIP primarily addressing permitting requirements for PM_{2.5} emissions (2014 SIP submittal). In a letter dated July 13, 2016, VT DEC withdrew some, but not all, of the revisions the State requested in its 2014 SIP submittal. The State withdrew these provisions for various reasons; either because more information would be needed before certain provisions could be approved by EPA into the SIP, one provision was erroneously submitted, or Vermont intends in the near future to revise certain provisions and resubmit them to EPA.

We are approving the following contained in the State's 2014 SIP submittal:

a. Nine new and two revised definitions in APC Section 5-101 that were contained in the 2014 SIP submittal. The new definitions are of the terms: 1) “Municipal Waste Combustor Acid Gases (measured as sulfur dioxide and hydrogen chloride)”; 2) “Municipal Waste Combustor Metals (measured as particulate matter)”; 3) “Municipal Waste Combustor Organics (measured as total tetra- through octa-chlorinated debenzo-p-dioxins and dibenzofurans)”; 4) “Municipal Solid Waste Landfill Emissions (measured as nonmethane organic compounds)”; 5) “Particulate Matter Emissions”; 6) “PM₁₀,”; 7) “PM₁₀ emissions”; 8) “PM_{2.5}”; and 9) “PM_{2.5} direct emissions.” The two revised definitions are of the terms: 1) “Significant”; and 2) “Particulate Matter.”

b. A provision which removes an exemption for wood coating operations from the SIP rule for “Other Sources That Emit Volatile Organic Compounds.”

c. Provisions that revise the State’s Ambient Air Quality Standards for the criteria air pollutants.²

d. Provisions that (as stated earlier) contain requirements for sources to follow when submitting an ambient air impact analysis in relation to a PSD permit. The revision was made to clarify that a source’s analysis must follow EPA’s procedures at 40 CFR part 51, Appendix W.

e. Provisions that slightly revise the requirements that apply to a new or modified source that otherwise would have been subject to minor new source review to be classified as major based on the impact on ambient air from the source’s allowable emissions.

f. Provisions (as stated earlier) require the State to notify certain entities of a proposed PSD permit, including affected states and federal land managers.

² Because the state adopted these state ambient air quality standards in 2014, Vermont’s regulations do not contain an ambient air quality standard for ozone that is equivalent to the federal 2015 ozone standard. However, the ozone standard we are approving is consistent with the 2008 federal ozone standard.

g. Provisions (as stated earlier) that require sources subject to PSD to conduct and submit an ambient air quality impact analysis.

h. A provision that requires a source subject to PSD to demonstrate that it will not cause an adverse impact on visibility or any air quality related value in any Class I area.

i) A provision requiring a source subject to PSD to gather ambient monitoring data representative of the area in which the source is located. (We note that this provision is codified at APCR Section 5-502(8)(b) of the State's regulation and will be approved into the SIP with that same codification. Because the codification of, and provisions contained in, the State's regulations have changed over the years, and the State's 2014 SIP submittal did not include all of the State's current ambient air quality monitoring provisions, APCR Section 5-502(8)(b) will appear after and separately from the already approved SIP revisions in APCR Section 5-502(7), which also relate to ambient air quality monitoring; the one exception is that the current SIP provision at APCR Section 5-502(7)(b) will no longer be in the SIP because it is being replaced by APCR 5-502(8)(b). EPA believes that implementation of the State's permitting program and the enforceability of these provisions as part of that program will not be compromised because the provisions will have been approved by EPA on separate dates. Thus, in future legal proceedings, a complete and accurate citation to these provisions should also include the date upon which EPA approved the provision in question into Vermont's SIP in order to distinguish clearly one from the other.)

III. Final Action

Based on the analysis contained in the Technical Support Document, EPA is approving the following sections of Vermont's APCR:

Within APCR Subchapter I: Definitions:

1. "Federal Land Manager"
2. "Federally Enforceable"
3. "Municipal Waste Combustor Acid Gases (measured as sulfur dioxide and hydrogen chloride)"
4. "Municipal Waste Combustor Metals (measured as particulate matter)"
5. "Municipal Waste Combustor Organics (measured as total tetra- through octa-chlorinated debenzo-p-dioxins and dibenzofurans)"
6. "Municipal Solid Waste Landfill Emissions (measured as nonmethane organic compounds)"
7. "Particulate Matter"
8. "Particulate Matter Emissions"
9. "PM₁₀"
10. "PM₁₀ emissions"
11. "PM_{2.5}"
12. "PM_{2.5}direct emissions"
13. "Significant"

Within APCR Subchapter II: Prohibitions:

1. Section 5- 5-251: Control of Nitrogen Oxide Emissions
2. Section 5-252: Control of Sulfur Dioxide Emissions.

3. Section 5-253.20(a)(3): Applicability for Other Sources That Emit Volatile Organic Compounds.

Within APCR Subchapter III: Ambient Air Quality Standards:

1. Section 5-301: Scope
2. Section 5-302: Sulfur oxides (sulfur dioxide)
3. Section 5-303: Reserved
4. Section 5-304: Particulate Matter $PM_{2.5}$.
5. Section 5-306: Particulate Matter PM_{10} .
6. Section 5-307: Carbon Monoxide
7. Section 5-308: Ozone
8. Section 5-309: Nitrogen Dioxide
9. Section 5-310: Lead

Within APCR Subchapter IV: Operations and Procedures:

1. Section 4-401(2): Hot Mix Asphalt Batch Plants
2. Section 4-402: Written Reports When Requested
3. Section 5-406: Required Air Modeling

Within APCR Subchapter V: Review of New Air Contaminant Sources:

1. Section 5-501: Review of Construction or Modification of Air Contaminant Sources.
EPA is approving subsections (1), (4), (5), (6), and (7)(c) of this section.
2. Section 5-502: Major Stationary Sources and Major Modifications: EPA is approving subsections (2), (4)(a), (4)(b), (4)(e), (6)(b), and (8)(b).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective **[Insert date 60 days from date of publication in the Federal Register]** without further notice unless the Agency receives relevant adverse comments by **[Insert date 30 days from date of publication in the Federal Register]**.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[Insert date 60 days from date of publication in the Federal Register]** and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Vermont's Air Pollution Control Regulations described in the amendments to 40

CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through <http://www.regulations.gov>.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days

after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 20, 2016.

H. Curtis Spalding,
Regional Administrator,
EPA New England

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart UU – Vermont

2. In §52.2370(c) the Table “EPA Approved Vermont Regulations” is amended by:

- a. Revising state citation entries for Sections 5-101, 5-251, 5-252, 5-253.20, 5-301, 5-302, 5-303, 5-306, 5-307, 5-308, 5-309, 5-310, 5-401, 5-402, 5-406, 5-501, and 5-502; and
- b. Adding state citation entries Sections 5-304 and 5-305.

The revisions and additions read as follows:

§ 52.2370 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-Approved Vermont Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanations
**	*	*	*	**

Section 5-101	Definitions	7/5/2014	<u>[Insert Federal Register date of publication date]</u> <u>[Insert Federal Register citation]</u>	Revised three definitions and added 10 new definitions
*	*	*	*	**
Section 5-251	Control of nitrogen oxides emissions:	2/8/2011	<u>[Insert Federal Register date of publication date]</u> <u>[Insert Federal Register citation]</u>	Revised the applicability section
Section 5-252	Control of sulfur dioxide emissions	2/8/2011	<u>[Insert Federal Register date of publication date]</u> <u>[Insert Federal Register citation]</u>	Revised the applicability section
*	*	*	*	**
Section 5-253.20	Other sources that emit volatile organic compounds.	7/5/2014	<u>[Insert Federal Register date of publication date]</u> <u>[Insert Federal Register citation]</u>	Removed the exemption for surface coating of wood
*	*	*	*	**

Section 5-301	Scope	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	The air quality standard for sulfates is not part of the SIP
Section 5-302	Sulfur oxides (sulfur dioxide)	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	Revision addresses the SO ₂ NAAQS adopted in 2010
Section 5-303	Reserved	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	The secondary standard for SO ₂ is now contained in Section 5-302
Section 5-304	Particulate matter PM _{2.5}	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	New section addresses the 2006 primary and secondary 24-hr standard and the 2013 primary annual standard for the PM _{2.5} NAAQS.

Section 5-306	Particulate matter PM ₁₀	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	Removed the annual standard to be consistent with the 2006 PM ₁₀ NAAQS
Section 5-307	Carbon monoxide	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	Clarified language to be consistent with EPA
Section 5-308	Ozone	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	Revision addresses the Ozone NAAQS adopted in 2008
Section 5-309	Nitrogen dioxide	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	Revision addresses the NO ₂ NAAQS adopted in 2010

Section 5-310	Lead	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	Revision addresses the Lead NAAQS adopted in 2008
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Section 5-401	Classification of air contaminant sources	2/8/2011	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	Amended the source category for asphalt batch plants
Section 5-402	Written reports when requested	2/8/2011	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	
*	*	*	*	**
Section 5-406	Required air modeling	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	Clarified air dispersion modeling must be done in accordance with 40 CFR part 51, Appendix W

Section 5-501	Review of construction or modification of air contaminant sources	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	Only approving: revisions made to subsections (1) and (5); new provisions (4), and (6) even though existing subsection 4 and 6 will remain in the SIP; and new introductory text in subsection (7), and new text in subsection (7)(c).
Section 5-502	Major stationary sources and major modifications	7/5/2014	<p><u>[Insert Federal Register date of publication date]</u></p> <p><u>[Insert Federal Register citation]</u></p>	Approving only revisions made to subsections (2), (4)(a), (4)(b), (4)(e), and (6)(b) and adding a new subsection (8)(b). Also removing subsection (7)(b). Subsections (7) and (8) both relate to ambient air quality monitoring.
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